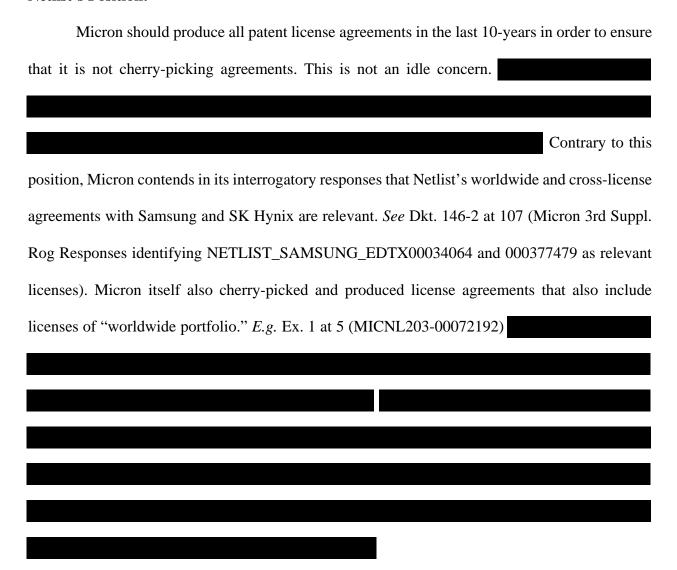
UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TEXAS MARSHALL DIVISION

NETLIST, INC.)	
Plaintiff,)	
v.)	
)	
MICRON TECHNOLOGY, INC., MICRON)	Civil Case No. 22-cv-203-JRG
SEMICONDUCTOR PRODUCTS, INC., and)	
MICRON TECHNOLOGY TEXAS LLC,)	JURY TRIAL DEMANDED
Defendants.)	
)	
)	
)	

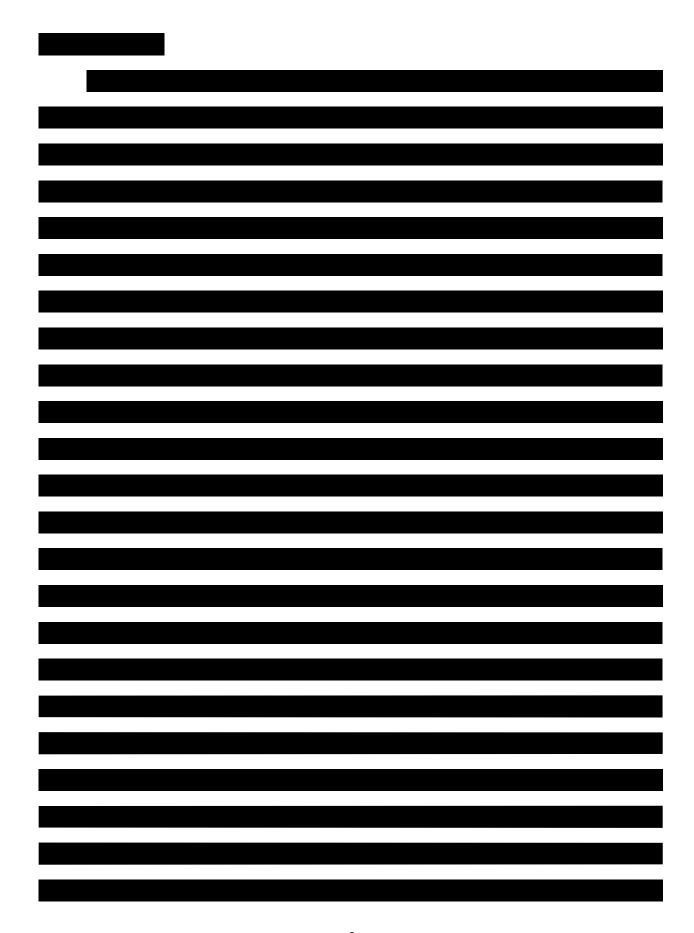
JOINT STATUS REPORT REGARDING PLAINTIFF NETLIST, INC.'S
MOTIONS TO COMPEL LICENSES, DOCUMENTS IMPROPERLY
DESIGNATED AS SOURCE CODE MATERIALS, AND MICRON SUPPLIERS'
COMPONENTS INFORMATION (DKT. 131, 132, 133), DEFENDANTS
MICRON'S MOTION TO COMPEL SK HYNIX AND NEGOTIATION
DOCUMENTS (DKT. 135)

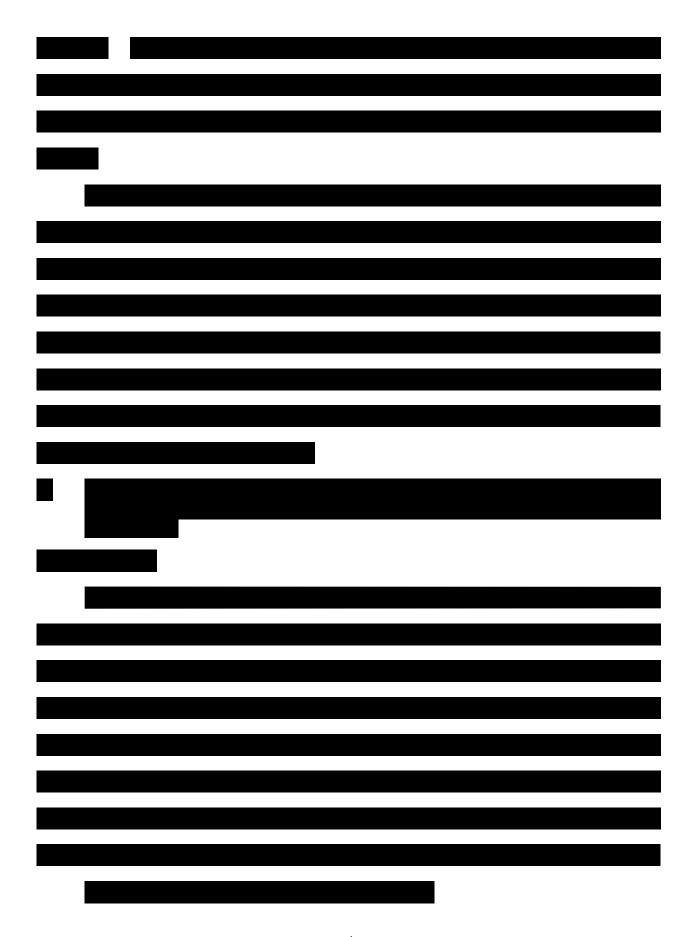
<u>I.</u> <u>Motion to Compel Production of Relevant License Agreements and Lists of Patents, Dkt. 131:</u>

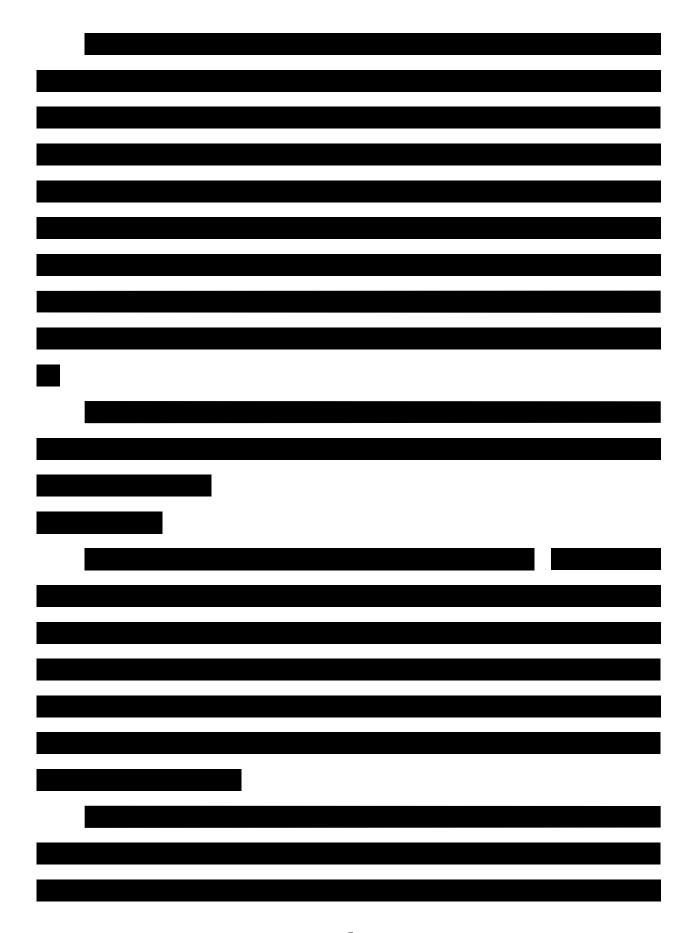
Netlist's Position:



Micron's uncited assertion that Netlist agreed that the Samsung/Rambus agreement amount was not admissible has no connection to reality. The amount was mentioned repeatedly at trial. *See, e.g., Netlist, Inc. v. Samsung Elec. Co., Ltd.*, No. 21-cv-463, Dkt. 490, 492 (Tr. Transcript) at 720; 721, 724, 1016 (identifying patent made under the license agreement up to \$1.1 billion). In addition, there is a difference between relevance and admissibility. Without knowing the amount and its relation to the agreement Micron has removed any ability to lay a foundation of admissibility.







inspection sessions, Micron additionally provided the specific locations of the source code on white boards in the review rooms. Netlist's motion is moot.

As explained in Micron's opposition, the parties negotiated a protective order that allowed for a Micron employee to assist Netlist in its source code review, Netlist later changed its mind and successfully moved to modify the protective order to exclude Micron's assistance, and now Netlist is crying foul when its reviewers had a slightly hard time locating certain source code. Even if Netlist's complaint was true—which it is not because Micron did indeed promptly provide the relevant code and identified exactly where the code is located—Netlist's confusion is a problem of its own making. For example, Netlist argues that it was able to locate RTL codes for only a subset of Micron's designs.

Netlist also attaches a new declaration to this Joint Status Report identifying, *for the first time*, the specific directory paths its reviewers inspected. The declaration is improper new argument as it was not included with Netlist's motion. The declaration also contradicts Netlist's motion by highlighting that Netlist's reviewers knew exactly where to look for the RTL and that Netlist made false representations to this Court that its reviewers were drowning in "millions of files" (Mot. at 6) when, in reality, Netlist's reviewers zeroed in on just several hundreds of RTL files (Ex. 3) for each Micron design, which is typical for designs having complexities similar to Micron's HBMs.

III.	Netlist's Motion Compel Production of Documents and Information of Micron's Component Suppliers (Dkt. 133):
Netlis	t's Position:
	During the parties' meet and confer, Netlist proposed that it is willing to withdraw the
motion	n if Micron agrees to stipulate that its purchase records of the data buffers, RCDs, and PMICs
from v	various suppliers accurately reflect the ratio of each component used in Micron accused
produc	cts; and for RCDs purchased, the numbers will first be decreased by the ratio of LRDIMM
to RD	IMM sales.
Micro	on's position:

IV. Micron's Motion to Compel Production of Certain Materials from Netlist's SK Hynix Litigation and Negotiation Documents (Dkt. 135):

Micron's position:

Micron is requesting production of a narrow set of documents – namely, (1) draft of the

settlement/license agreement Netlist negotiated with SK hynix; and (2) witness statements,

deposition transcripts, expert reports, and pre- and post-hearing briefs from prior SK hynix

litigation as well as hearing transcripts. The narrow set of draft agreements are highly relevant to

damages, and in particular, the determination and Netlist's understanding of RAND royalties. The

other requests are necessitated by the significant overlap in the patent families and the accused

products between the SK hynix litigation and this case. The narrow set of documents that Micron

seeks are highly relevant to at least (1) conception and reduction to practice; (2) claim construction;

(3) Netlist's understanding of how some of the accused products operate; (4) non-infringement

and (5) damages issues. Netlist's counsel has these documents at its fingertips and cannot argue

any burden for the requested production.

Netlist's Position:

Netlist offered to produce specific documents from the SK hynix litigation that Micron

could identify as relevant. Micron refused to narrow the scope of its request. Micron also makes

no attempt to explain the relevance of the large volume of confidential documents it demands.

Further, Micron does not explain why all documents exchanged during the lengthy negotiation

process in the Hynix case are relevant here—particularly in light of the fact that such negotiations

are FRE 408 settlement communications.

Dated: August 21, 2023

Respectfully submitted,

/s/ Jason G. Sheasby

Samuel F. Baxter

Texas State Bar No. 01938000

sbaxter@mckoolsmith.com

Jennifer L. Truelove

Texas State Bar No. 24012906

jtruelove@mckoolsmith.com

- 8 -

MCKOOL SMITH, P.C.

104 East Houston Street Suite 300

Marshall, TX 75670

Telephone: (903) 923-9000 Facsimile: (903) 923-9099

Jason G. Sheasby (pro hac vice)
jsheasby@irell.com
H. Annita Zhong (pro hac vice)
hzhong@irell.com
Thomas C. Werner (pro hac vice)
twerner@irell.com
Yanan Zhao (pro hac vice)
yzhao@irell.com
Michael W. Tezyan (pro hac vice)
mtezyan@irell.com

IRELL & MANELLA LLP

1800 Avenue of the Stars, Suite 900 Los Angeles, CA 90067 Tel. (310) 277-1010 Fax (310) 203-7199

Attorneys for Plaintiff Netlist, Inc.

/s/ Michael R. Rueckheim

Thomas M. Melsheimer State Bar No. 13922550 TMelsheimer@winston.com Natalie Arbaugh State Bar No. 24033378 NArbaugh@winston.com WINSTON & STRAWN LLP

2121 N. Pearl Street, Suite 900

Dallas, TX 75201

Telephone: (214) 453-6500 Facsimile: (214) 453-6400

Facsimile: (214) 453-6400 Michael R. Rueckheim

State Bar No. 24081129 MRueckheim@winston.com WINSTON & STRAWN LLP 255 Shoreline Drive, Ste 520 Redwood City, CA 9405

Telephone: (650) 858-6500

Facsimile: (650) 858-6559

David Enzminger

Pro Hac Vice Pending

DEnzminger@winston.com

WINSTON & STRAWN LLP

333 S. Grand Avenue Los Angeles, CA 90071-1543 Telephone: (213) 615-1700 Facsimile: (213) 615-1750

Matthew Hopkins

Pro Hac Vice Pending

mhopkins@winston.com

WINSTON & STRAWN LLP

1901 L Street, NW Washington, DC 20036 Telephone: (202) 282-5862 Facsimile: (202) 282-5100

Juan Yaquian
State Bar No. 24110559
Pro Hac Vice
JYaquian@winston.com
WINSTON & STRAWN LLP
800 Capital Street, Suite 2400
Houston, TX 77002

Telephone: (713) 651-2600 Facsimile: (713) 651-2700

Attorneys for Defendants Micron Technology, Inc., Micron Semiconductor Products, Inc., Micron Technology Texas LLC

CERTIFICATE OF SERVICE

I hereby certify that, on August 21, 2023, a copy of the foregoing was served to all counsel of record.

<u>/s/ Yanan Zhao</u> Yanan Zhao

CERTIFICATE OF AUTHORIZATION TO FILE UNDER SEAL

I hereby certify that the foregoing document and exhibits attached hereto are authorized to be filed under seal pursuant to the Protective Order entered in this Case.

/s/ Yanan Zhao Yanan Zhao

CERTIFICATE OF CONFERENCE

I hereby certify that, on August 20, 2023, lead and local counsel for the parties met and conferred on the issues raised in the parties' pending motions. The parties cannot resolve the above-referenced disputes.

/s/ Yanan Zhao Yanan Zhao